

**UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
Case No. 3:24-CV-00137-RJC-DCK**

CMT USA, INC. and CMT UTENSILI S.p.A.,

Plaintiffs,

v.

APEX TOOL GROUP LLC and APEX  
BRANDS, INC.

Defendants.

**CMT’S MOTION TO SANCTION  
APEX’S FAILURE TO  
COMPLETE AND CORRECT  
ITS INCOMPLETE AND  
ERRONEOUS RESPONSE TO  
INTERROGATORY NO. 6**

**NOW COME** Plaintiffs CMT USA, Inc. and CMT Utensili S.p.A. (collectively “CMT”), by and through counsel and pursuant to Federal Rule of Civil Procedure 37(c)(1), and respectfully submit this Motion for Sanctions based on a violation of Rule 26(e) by Defendants Apex Tool Group LLC and Apex Brands, Inc. (collectively “Apex”).

As set forth more fully in the Memorandum filed contemporaneously herewith, Apex has failed to supplement its interrogatory response concerning its advertising expenditures for the products that are accused of infringing CMT’s mark. Apex continues to insist that it spent \$0 on marketing for the products in 2023, which is demonstrably inaccurate. Because Apex’s advertising expenditures directly contribute to CMT’s calculation of remedial advertising damages, and Apex has refused to supplement its incomplete and inaccurate response, this Court should impose appropriate sanctions against Apex.

WHEREFORE, for the reasons stated herein and in the Memorandum and Declaration of Robert E. Colletti with accompanying exhibits (Dkt. 201), CMT respectfully requests that the Court sanction Apex by entering an Order that:

1. Establishes, for purposes of this case, the amounts of Apex's advertising expenditures for saw blades for the years 2021 through 2023;
2. Awards CMT its expenses and reasonable attorneys' fees incurred in investigating this matter and bringing this motion; and
3. Provides the jury shall be informed that Apex wrongly underreported its marketing and advertising expenses to CMT and, as a consequence, the Court had to correct the expense figures.

Respectfully submitted, this 21st day of May, 2025.

/s/ Joshua B. Durham

Ward Davis (NC Bar ID 27546)

Joshua B. Durham (NC Bar ID 25414)

**BELL, DAVIS & PITT**

227 W. Trade Street, Suite 1800

Charlotte, NC 28202

(704) 227-0400

ward.davis@belldavispitt.com

jdurham@belldavispitt.com

/s/ Robert E. Colletti

Edgar H. Haug (*pro hac vice*)

Robert E. Colletti (*pro hac vice*)

Mark Basanta (*pro hac vice*)

**HAUG PARTNERS LLP**

745 Fifth Avenue

New York, NY 10151

(212) 588-0800

ehaug@haugpartners.com

rcolletti@haugpartners.com

mbasanta@haugpartners.com

*Attorneys for Plaintiffs*

*CMT USA, Inc. and CMT Utensili S.p.A.*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 21, 2025, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF System. Service of same on any counsel of record will be accomplished through the Court's electronic filing system in accordance with Federal Rule of Civil Procedure 5(b)(2)(E).

/s/ Joshua B. Durham